



MEETING

The regular meeting of the Hayward Planning Commission was called to order at 7:30 p.m. by Chairperson Bogue, followed by the Pledge of Allegiance.

ROLL CALL

Present: COMMISSIONERS Zermeno, McKillop, Sacks, Caveglia, Halliday, Thnay
CHAIRPERSON Bogue
Absent: COMMISSIONER None

Staff Members Present: Anderly, Bauman, Conneely, Gaber, Looney, Patenaude

General Public Present: Approximately 75

PUBLIC COMMENT

J.V. McCarthy discussed the South of 92/Oliver West property. He then left a document for the record. He said he had forwarded the same document to various governmental agencies.

Ron Barklow talked about his concerns regarding the decision making process for development in the City of Hayward and how it might affect the environment, and how it would be to actually live in an proposed developed area.

AGENDA

1. **Blue Rock Country Club Project - PD 00-120-02 and Tentative Tract No. 5354 -**
Hayward 1900, The Roman Catholic Bishop of Oakland and the City of Hayward (Owners)
 - Precise Plan, including Design Guidelines
 - Vesting Tentative Tract Map 5354
 - Disposition of City-Owned Property - Finding of Consistency with the General Plan
 - Addendum to Supplemental Environmental Impact Report

The Blue Rock Country Club Project is a Private, Gated Single-Family Residential Community Consisting of 614 Single-Family Homes, an 18-Hole Golf Course, a Golf Clubhouse, and a Joint Elementary School/Park site on approximately 1,635 Acres of Lands Owned by Hayward 1900, the Roman Catholic Bishop of Oakland, and the City of Hayward

PUBLIC HEARINGS

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Planning Manager Anderly outlined the project. She noted that the project was approved in 1998. She stated that there are already development rights and a development agreement with the City of Hayward. At this meeting, the Planning Commission was charged only with making a recommendation to the City Council relative to the addendum to the Supplemental Environmental Report and as to whether the precise plan is in substantial conformance with the preliminary plan adopted in 1998, and also to approve the tentative map, which outlines the lots and streets as well as the infrastructure. She noted that the development was required to get the approval of the various responsible agencies such as the Fish and Game Department, which have control over the development of the land. She noted that compared to the preliminary plan, the grading in the precise plan has been reduced significantly in the golf course area. The number of homes is now 614 rather than 650. The number of acres for development has been decreased from 240 acres and is now less than 200 acres. The swim/tennis club in neighborhood "G" has been eliminated. That area is designated as preserve for habitat mitigation. The golf turf is less than originally proposed. The original agreement required sidewalks and the developer is proposing a compromise. He is providing sidewalks on some of the major streets. In 1998, he was required to meet the City's standard that no more than 50 percent of the front of the house be devoted to garage, he is now asking for an exception to that. She noted that Mr. Morton Carden's property is not included in the development. The public school is located at the entry to the property. The public school will eventually house 650 students. The developer is required at this time only to provide classrooms for 350 students. There is significantly less area devoted to parks than was anticipated, however, there is a condition of approval requiring the developer to find a location for an additional 5-acres of their land to be granted to the City of Hayward for use as parkland, before any final map is approved. She commented that the developer would like 200 lots to be custom lots. She said staff included a condition of approval that provides for administrative review over a single lot to be developed by a single developer. However, they would develop specific design guidelines for those homes, which would be approved before any final map is approved. She then noted the staff recommendation adding that there will be less environmental impact with fewer homes.

Deputy Director of Public Works Bauman discussed the Carden property that is surrounded by this development, and commented on Mr. Carden's easement rights to his property. He noted the improved access with the construction of the school. There is also litigation regarding his access rights. Another issue, raised during the 1998 plan, has to do with Mr. Carden's well and the effect on it of the significant grading in the area. A study concluded that the shallow well is not being threatened by the conditions. However, during the grading, contingency plans will provide water service from the City as well as an easement to the City of Hayward



water line.

Commissioner Caveglia asked about the mitigation proposal for the red-legged frogs. He noted "biologists will monitor the plan for 10 years to see if they succeed." He then asked what if the plan does not succeed. He also asked about the condition which says no blasting will be approved. He asked then about the lake on the golf course being used for irrigation needs and recycling the water and why the City of Hayward had backed off from this requirement.

Planning Manager Anderly responded that there are many activities to monitor that might indirectly affect the endangered species in the area. She also discussed the piping and plumbing proposal instead of a lake, which was a result of the mitigation plan with Fish and Wildlife to protect the red legged frogs. As a result, it was conditioned for piping to accept recycled water in the future, to compensate for that loss. In response to Commissioner Caveglia's question about padded lots, she also added that padded lots were considered and approved in 1998.

Deputy Director of Public Works Bauman explained that the geotechnical analysis done for the grading indicates that there is no intent for blasting. If they get to the rock and find it harder than expected, there will be no blasting unless the developer goes through a separate application process.

Commissioner McKillop asked what this development would look like from other parts of Hayward.

Planning Manager Anderly explained that this was considered in the 1998 Plan and some of the conditions of approval address lighting and color as a result.

Commissioner Halliday suggested that the last question was not answered completely. She commented that seeing the developments on paper is not the same as seeing them built. It is very important to preserve the view of the hills. She said she recalls hearing it was not going to be that visible from some areas of the City. She noted that the design guidelines call for setting the houses into the hills.

Planning Manager Anderly explained that it was noted in the 1998 Development Agreement that houses would be seen from Garin Park and from a distance.

Commissioner Zermeno commented that this new school would be the only school in Hayward without temporary buildings. He then asked about plans for bicycle racks.

Planning Manager Anderly said they do plan to build a school structure that could be modular. She said bicycle racks would be included as a condition for the local parks.

Commissioner Zermeno then asked where the 5-acre part to be placed.

Planning Manager Anderly suggested that the developer would be responsible for identifying the site.

Commissioner Thnay asked about the walkways through the main part of thoroughfare and the staff recommendation to be opportunities for cutthroughs so people can have access to the sidewalk area. He then asked about the landscape in terms of perception. He suggested when driving down Mission, tall trees might help to mitigate the homes. He then mentioned the Standard Pacific homes on Arrowhead.

Planning Manager Anderly admitted that the colors in that development are an issue. Recognizing that problem, this project will have more natural colors as well as more native plants on the perimeter.

Commissioner Halliday asked for more information on the Paseos. She said she was inquiring because there had been talk previously about bike and horse trails. She then asked about the visibility of the new water tank.

Planning Manager Anderly described the Paseos, and indicated that horses would only be on the trails to Garin Park, and not throughout the development. The water tank would be visible by looking down into it. From a visibility standpoint, it will not be significantly different from the present location and will have additional landscaping to buffer it. As to traffic, there is nothing in the current plan to substantially change the traffic mitigation from the 1998 plan.

Commissioner Sacks asked about the commercial area located in the golf course clubhouse. She asked about the fences and walls, but what does "where necessary" mean. She then asked about the definition of dense landscaping with regard to fire concerns. She referred to the leash law, and asked whether it includes all pets or just dogs.

Planning Manager Anderly explained that the intent of the commercial area was the same, to allow saving automobile trips in and out of the development. She noted that some fences might be necessary for cattle as well as noise mitigation. What fencing there is will be see-through, and not very tall. Privacy fencing is limited to between the houses and for keeping in pets. She also indicated that the "dense landscaping" requirement has been a concern for staff as well. The conclusion would be enough landscaping to enhance, but not enough for a fire danger. She said they are working for a balance with plantings for a more natural look. As to the leash provision, it will include all forms of domestic pets.

Chairperson Bogue discussed the design guidelines and the variations with the setback requirements. There are no required setbacks on these houses. He asked how the guidelines could be so varied. He then asked about the restriction requiring homeowners to control the slope banks management and maintenance.

Planning Manager Anderly indicated that there are limits to where development can occur. In order to be creative, the developer is promoting flexibility. She agreed that the way it is written, it does appear the homeowners would maintain the slope banks. She said staff could be more specific in indicating that the Homeowner's Association will be requiring the homeowner to carry out maintenance.



Commissioner Halliday asked about trees and tree removal process.

Planning Manager Anderly said the Tree Preservation Ordinance would protect those trees planted within the development. As to those trees to be removed, she noted that the EIR recognized a substantial number of trees would be removed. She said the Landscape Architect had been to the site and they were hoping to save more of the trees but because many are in hills and in clumps, it is not feasible to replace them so there will be a substantial loss of Oak trees at the site.

The public hearing opened at 8:30 p.m.

Steve Miller, owner and developer, discussed what has occurred since the 1998 approval. He commented on the process with the U.S. government because of the wetlands on the site. He then enumerated the number of agencies to which they applied in order to reactivate their 404 permit. He stated that they had obtained every permit or agreement with all of them. He talked about the enhancements for the school, and discussed the need to vote for the bond issue of construction of new schools in November on which many of the enhancements will rest. He noted that the U.S. Fish and Wildlife Service determined that the Blue Rock County Club would not jeopardize the continued existence of both the Alameda whip snake and red-legged frog. Subsequent to this opinion, the service established new biological and critical habitat for these two species. The U.S. Fish and Wildlife Service determined that the effects of the loss of much of the land will be offset by environmental enhancements, and will not adversely affect their habitat. He then discussed the litigation with Morton Carden, which is basically an eminent domain action by the Hayward Unified School District to accommodate the size of the school. He said they, too, have a quiet title action against Mr. Carden regarding his alleged rights across their property. These both should be resolved within six months. He emphasized that this project is smaller, and has much less impact than that proposed in 1998. Downsizing the project will also significantly reduce grading for the project, by almost half. He noted the 1200 acres that will be publicly owned. He commented that the amenities of this project are oriented toward citizens of the City. He asked the Commission to find the plans in substantial conformance with those approved by the City Council in 1998.

Commissioner Caveglia asked about the need for State bonds to build the school.

Mr. Miller indicated that their responsibility is to build the school outlined by staff. However, with the availability of State funding, the school could be substantially enhanced for a bigger, and better equipped school. He indicated that they are working with the State to apply for these funds.

Commissioner Halliday asked about the sidewalks. Staff is saying that if they are not installed, additional cutthroughs should be constructed. She added that she had met with Mr. Miller a week ago. She stated that she felt strongly about pedestrian use and Paseo idea is nice. She also asked about the speed limits in the development.

Mr. Miller responded that the cutthroughs came to his attention last week. So he has not had a chance to look at it, but he said they would be receptive to the concept. He commented that this is a gated private community with private streets; as a result they have attempted to mirror other Country Club environments. There are no sidewalks in other well-known Country Clubs. He said he thinks they have enhanced the pedestrian transportation system with the wider streets and the trails. He indicated that there would be speed limits throughout the project. He said they would negotiate with the Hayward Police Department and use Department of Motor Vehicle Codes for this community.

Ed Mullins, speaking for the Chamber of Commerce, said the Chamber is in favor and very supportive of this project. He said as an individual and resident of the City of Hayward, he sat on the ad hoc committee, which worked on the plan. This is something different for Hayward, with many advantages for Hayward, wider diversity for Hayward. The precise plan is still true to the basic concept. He urged the Planning Commission to approve the recommendation.

Ron Barklow suggested the Commission look at this property from different views. He also asked about the other grades and the effect on the Hayward Unified School District at the Junior High and High School levels. He then discussed the limited amount of water and how a drought would affect this project. He then discussed the dynamite blasting on Bailey Ranch. He suggested looking at the Five-Canyons project for example. He asked whether City employees would be able to afford the property. He commented on cats and all personal pets being kept indoors. He suggested spading and neutering pets before they move into the project. He asked about traffic, and should they not wait for the mitigation at Carlos Bee and Mission before any more housing is approved. He questioned the health of the birds in this area without the trees. He then suggested awaiting a final resolution until the Court decision is made. He recommended using a private security firm for patrolling this community, rather than City Police.

Betty Moose, Grey Panthers, said they oppose this project because of their concern for the air, water. She noted that the State budget does not provide any funding for new schools. And commented that at all ages, sidewalks are necessary. Having no sidewalks could be hazardous, particularly for those with disabilities.

Sherman Lewis, representing Hayward Area Planning Association, asked for the Commission to delay a decision until there was more adequate information, particularly the final item of the Addendum. He noted also the huge rise in housing prices, which makes the project economically feasible without the part of the project (golf course) that intrudes so much into open space. He indicated that there is new information regarding traffic and the number of new housing tracts in the area, as well as the pending cancellation of the 238 By-Pass for that area. He mentioned that the EIR discussed mitigations if the By-Pass were not built. He said they hope the Planning Commission would ask for a feasibility study and the courts ruling on this.

Commissioner Halliday asked about the lawsuit regarding the wildlife habitat.

Dr. Lewis responded that the Hayward Area Planning Association and the Center for Biological Diversity, represented by Earth Justice, sued to protest the approval of the "no jeopardy" biological opinion, as well as the failure to re-consult. He noted that the extensive reconsideration which determined that there will be no jeopardy to the wildlife species. He said he recognized the efforts of the developer to protect the species. However, he believed there are

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some fundamental incompatibilities with these species and golf course. He noted that the final opinion reactivates the lawsuit concerning the substance of whether these species will be threatened by this development.

Al Mendahl said he had only a few small issues; first the Homes Owners Association will be required to enforce landscaping and other rules. He suggested that the dues be set high enough to allow them to pursue the required enforcement. He said he lives in Twin Bridges and the dues are not enough to accumulate the money necessary to do anything. He then warned of people buying homes near the golf course and having balls strike their homes. He described the experience of being peppered by golf balls even several blocks away. He suggested finding ways to mitigate that, moving the fairways farther from the homes, or create shorter fairways. He suggested consideration of these issues and making the necessary changes.

Bob Doyle, EBRPD, Assistant General Manager, said they have been working with Mr. Miller, who has been very cooperative. He discussed that at the initial proposal of this project, Garin and Dry Creek Regional Parks were about 2,000 acres in total, since then they have been expanded to 4,600 acres. He commented that this project is highly visible, so they have been working very hard to try to mitigate the impacts, for the public as well as the endangered species. He indicated that they have raised some concerns: the water tanks if they are not painted in a way to stop reflection of the sun, they will be visible to everyone. This is an open grassland area. He suggested that the City of Hayward consider more of the color issues rather than landscaping features. He mentioned that Bailey Ranch was required to do mitigation for whip snakes. He said looking up at the hills, you see rows of rocks that look like a development or an airfield runway. He commented that it is important to remember that the Agencies focused on the species are not always focused on the aesthetics. Care should be made in the design of the habitat and what it looks like. He commented on the biggest issue he was there to advise the Commission of was that, in the beginning EBRPD was to be given over 1,000 acres of property. They had an agreement whereby they traded 20 acres as a boundary adjustment and, in return, were to get about 1,000 acres, which was to be part of the park. Today, they believe that the land being dedicated is not parkland but habitat. The public needs to understand that that habitat is not regulated by the Park District but by the Fish and Wildlife Service and the most recent biological opinion eliminates all public access from 500 acres within Section 32. Although Mr. Miller has agreed to help fund studies to address that issue, the East Bay Regional Parks District cannot guarantee that the public, including the residents of Blue Rock and the users of Garin Park will be able go on to that property. He said, we have no guarantee that we can get the permits to provide what the public thought was going to be a park addition. The latest biological opinion says, "There will be no trails in Section 32 at all." He said they would work very hard to get that access. He said they could not guarantee that they will even accept Section 32 as intended unless they resolve these issues. It is in the hands of the Fish and Wildlife Service. He said they will do their best, but he was sure that everyone who worked on the specific plan and the development plan believed that the public was going to own and use the trails. That is no longer the case. He agreed it was a difficult issue. He said at this point it is at best a 50/50 proposition.

Commissioner Sacks said it does not appear to matter who owns that land. However, she asked, is there is a differentiation between not allowing trails as opposed to not allowing people into the land.

Mr. Doyle stated that allowing people onto the land would be in violation of the biological opinion in the current agreement and conditions of approval for that agreement. He noted that there would be enforcement measures taken, and signage of "No Access" He added that he is not sure where it leads us. However, the ruling does not currently allow for both. For any public access the conservation easement has to be regulated.

Commissioner Halliday expressed her concerns regarding the views from existing parks and trails.

Mr. Doyle indicated that there have been many changes since the early modifications. He did applaud the new design for the golf course. As to the visual effects, looking at what is on paper and the reality, it is difficult to say. He commented that their issues are circulation and regulation.

Morton Carden, owner of the property, said he and his family oppose the plan because it violates and interferes with his prescription easement for pedestrian and vehicle ingress and egress, which has been established for more than 70 years. He said he had his attorney notify the developer and City staff of the easement. He said he was requesting the Commissioners to require the developer to alter their project so that it will not interfere with his prescription easement running from the northeast corner of his property to Fairview Avenue. He noted that this easement is involved in the lawsuit brought against him by the developers. They are making progress in the resolution of this dispute.

Joy Rowen said she had five major concerns. She said the views were misrepresented, just look at Bailey Ranch. She said she did appreciate that there are less houses. She commented on traffic and amount of parking in the neighborhood. She is concerned about the wildlife. Reducing the tree cover in the area by 41 percent is going to have a major effect on the wildlife as well as the look of the hillside. The report with the water discharge had a lot of modifiers in it. She then expressed concern about the blasting and effect on the wildlife. Also, with fauna, there is no way to stop cats from going anywhere. As to public access, there is nothing to prevent people from going in. As to the development guidelines, if 200 of these homes become custom lots, who is going to be held responsible. She also expressed concern about the degree to which the Hillside Guidelines were not having any effect on this development. Another concern is the Police in a private gated community. It is not right to use Hayward resources for private areas.

Kindra Mendall said she would prefer not to see the building up there. She suggested learning from what has happened at Bailey Ranch and the Highlands at Clearbrook. None is something she likes to look at, and hopes the City of Hayward can learn from their mistakes. She then made comments on some of the conditions of approval. Regarding the gray water system, not having ponds on the golf course should not in any way limit their use of gray water. She noted that the waterfalls should also be on a gray water system and referred to the big waterfall at Five-Canyons which has been turned off and is now considered an eyesore. She commented on the sidewalks and walking with strollers. She suggested having sidewalks at least on one side. No matter how it is landscaped it will not mitigate the views. She noted that all of the agencies

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from which the developer has had to receive permits are each very narrow in scope. The City of Hayward needs to look at whether this is something the City wants and needs.

Jason Moreno discussed his recent experience at a gated community with a nine-hole golf course in Florida. He observed some safety issues, which included speed bumps for the golf carts where their tracks meet streets and highways. Another is lighting street signs. He noted that emergency vehicles responding to the area could not find the location by the signs without lighting on them. He commented that they have no sidewalks either so senior citizens walk in the streets. The speed limits are not enforced since, in California, police cannot enforce the vehicle code on private property. As to how these developments address parking and speed problems, he indicated that the residents at one community sign an agreement that they will obey all of the traffic enforcements. If they do not, the private security force will issue a parking citation. The individuals have the option of paying and not paying. If it is not paid, a lien is placed against their home. Speeding is not enforced. In the community in Florida, they require each home to have a gas tank to warm water. He suggested future requirements of solar panels in developments.

Darryl Dunn, a Bailey Ranch homeowner, expressed concern regarding the school and how far back from it the fence will be. He said he hoped there would be space and discussed the structure of the school itself. He said he would hope it would not block the houses or hills for his view. He also expressed concern about traffic in the area. He said he would hope Hayward Boulevard is widened. He noted that with the traffic in the area, making a left turn is dangerous at this point. He asked whether answers to all of the questions being asked would be forthcoming or not. He then asked to be able to contact Mr. Miller directly with more questions.

Chairperson Bogue suggested that the developer be asked to respond to some of the questions being raised.

Planning Manager Anderly suggested displaying the plans for the schools. She noted that the school would be higher than his lot, and said she will be glad to meet with Mr. Dunn to show him how the school would impact his lot.

Douglas Grant, new resident on Oakes Drive, said he has not really gotten into this area yet, but hoped much of the natural terrain would remain. He said they were described to him as low-density monster homes. He commented on a new stop sign at Fairview Avenue, at which people do not stop. He suggested the residents of this development would go through either 5-Canyons or Fairview. He then discussed the condition of Fairview, and realized it might be a County road. He noted that traffic is his biggest concern. He added that he would like to see the golf course be more natural.

Evelyn Stivers, with Greenbelt Alliance, said they had not had sufficient time to review the addendum and the changes are significant. She noted that there is insufficient data to say it will not affect or have a significant impact on the environment. The lot sizes might have a significant

affect and impact on the traffic in the area, as well as the view shed. She said she thought it was premature for this commission to take any final action until public has had a chance to review. She made note that it is a complicated project and will have permanent impacts once it is built. She asked for more time to look at these issues more carefully.

Commissioner Sacks asked about the information not being made available.

Ms. Stivers said they did not have access to the information until recent days.

Brian Schott, Chair of the Hayward Highland Task Force, said that although Task Force did not approve the development unanimously, the sum of the review was approved. He noted how much the project has been scaled down from the original proposal. He then discussed his vacation home at Lake Wildwood, which has many similarities to this project. Sidewalks do not fit into this setting; it is a more natural setting. Hayward needs this development. He said living there is about choice.

Commissioner Halliday asked why he did not want sidewalks.

Mr. Schott responded that it is on a hilly property. They are not needed. He said it fits the natural setting not to have more concrete. It is mostly for aesthetic reasons.

Jewel Spaulding, representing Hayward Hills Property Owners Association, noted that the public did not have the opportunity to review the addendum. She discussed the changes made by the subdivisions in the area of 1,300 new homes. She emphasized that there is now new information available which should be studied and reviewed to learn the real impact of another 600+ homes to the area. So everybody can know what the impacts will be. She discussed the critical habitat. She noted that Mr. Doyle's comments regarding no access to over 500 acres of the 1,000, which were promised. She also questioned the school versus bond issues. She stated that they were just learning that horses are not welcome and that this project is not amenable to horses. The true importance of the traffic mitigations have not been released. She commented that there is evidence that additional environmental review is necessary. At this point there has not been sufficient time to examine the information.

Chairperson Bogue asked for a clarification regarding the requirements for the project as to the school. He clarified that Mr. Miller has been required to provide a core facility for a 650-student population, but with classrooms for only 350 students.

Peter Reimer said he shares many of the concerns of others. He asked for a reduction in the grading, denial for the use of drinking water on the golf course, consideration regarding the runoff from the golf course, and operation of the water tanks by gravity flow. He said he was opposed to the Hayward Police Department patrolling inside a privately owned gated community. He suggested that the school, if built as proposed would invite a lot of invidious comparisons to other public elementary schools in Hayward.

Steve Murtogh, Oakes Drive, said it was tough to balance some of the issues since this is looking like a foregone conclusion. He said he was moved by the statement that this is a decision point that will last for generations. He commented that the profit motive has to be a serious consideration. He suggested that the developer of this project might make \$50 million. He then

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suggested that the Planning Commission and City Council are the only ones to look over the whole picture. He asked what residents would say if asked whether traffic had improved as a result of mitigation measures instituted from the 1,600 houses which have already been built in the area.

Hillary Fleischer stated that the reason the fight for the Blue Rock Country Club has gone on so long, it just doesn't fit. She noted that Blue Rock Country Club encompasses a property one and one-half times the size of the City of Emeryville. She asked members to consider their decision carefully and not take it lightly. Once the hills are gone you cannot bring them back.

The public hearing closed at 9:54 p.m.

Commissioner Thnay asked staff whether the public had time to comment on the EIR.

Planning Manager Anderly stated that the Supplemental EIR was adopted in January, 1998, the addendum which is for minor changes to the report and does not need to be circulated, addresses these issues. She indicated that traffic was included in this report. However since this project is smaller than that originally projected it will have less impact. She said, even though it was not officially circulated as an EIR, this report was first noticed on July 10 to the newspapers and hundreds of people who are on the mailing list from previous meetings and public hearings. She noted that extra copies were made available.

Commissioner Zermeño said he perceived a sense from some speakers that questions will not be answered. What can we tell them and how to encourage the public to come and comment.

Planning Manager Anderly stated that the purpose of the public forum is to listen to the comments and consider any new issues raised. She noted that development rights were granted in 1998. So the question before the Commission is, whether the plan brought before this body consistent with the development rights granted in 1998. Is it substantially the same, does the tentative map carry out the issue. She noted that the addendum is a document that addresses issues. There was a separate addendum done by the School District specifically for the school.

Commissioner Halliday asked for further elaboration on the comments made by Mr. Doyle from EBRPD, which may preclude public access to the park system. She noted that her understanding was that 1,000 acres were to be dedicated to the Park System and tied to current trails provide access, might not be used by the public, including the Bay Ridge Trail.

Planning Manager Anderly indicated that the original development agreement required that the developer extend the Bay Ridge Trail around there and that has not changed. The Bay Trail access is still a part of this project. She then asked Mr. Doyle to elaborate further.

Bob Doyle, explained that the new biological opinion eliminates Section 32, almost 500 acres from any public access. That would be the whole south end of the project. He read from the opinion that stated that "Emergency maintenance access roads which are the existing trails, will

be posted with signs indicating that they are private roads from which no public access is permitted". There will be gates at the entrance to the access roads. He noted that this is a new issue, Mr. Miller did his best for the Bay Area Ridge Trail. The Trail was advocated by the developer and is now included. That runs along the top, parallel to the project. That will then go on to EBRP property to the south. He commented that he obtained a copy of the opinion the day before. Residents will go through the subdivision to the school site and then back up Garin Boulevard to enter the park. The property will be owned by the Golf Course.

Commissioner Caveglia asked for a clarification on what decision the Planning Commission was making. He stated that it was not a decision on whether this gets built. He affirmed that he had been voting against any building on the site for 20 years and would continue to do so. However, he noted the Planning Commission was merely being asked to recommend to City Council and see if this is in substantial conformance. He said as much as he opposed the project, it seems to be. He then commented that he had tried to stop the project because he believes there are sacred places in this world that should not to be built on, and this is one. He added that it is the City Council who will make the final decision. If people want a change, they should go to the Council meeting.

Commissioner Sacks said she was still confused about Mr. Doyle's report and wondered if Mr. Miller would comment.

Mr. Miller said it was their intent to dedicate 1,000 acres for public ownership. This is in compliance with the conditions of approval.

Commissioner Sacks then moved, seconded by Chairperson Bogue, to recommend to the City Council that they adopt the addendum to the certified Supplemental Environmental Impact Report (SEIR), find that the Precise Development Plan is in substantial conformance with the approved Preliminary Development Plan; approve the Design Guidelines for the project, as amended by staff; approve the Vesting Tentative Map; and find that the disposition of City-owned property is consistent with the General Plan, subject to the findings and conditions of approval.

Commissioner Sacks said the speaker who crystallized this for her was Mr. Schott who said it was about choice. She stated that their guidelines are very specific. She said she lived in an almost-gated community with no sidewalks, and no police, 15-mph speed limit. She said they do quite nicely. She chooses to live there, with 460 units, small lots. It is about choice. This is where she chooses to live. She then mentioned that Mr. Miller gave her a tour of the property.

Planning Manager Anderly clarified the condition of approval relative to the donation of property to a public entity. She noted that the condition read: the property owner shall execute an agreement to dedicate in perpetuity the undeveloped open space to a public agency, such as the East Bay Regional Park District or to a non-profit foundation or trust, with the expertise to manage open space lands and wildlife resources.

Commissioner Thnay said he agreed with the opinions expressed by commissioners. He noted that the Commission is trusted to make a decision as to whether the Project conforms to the integrity of what was decided upon four years ago. He suggested that the Planning Manager's suggestion of pedestrian paths would be seriously considered. In terms of speeding, he suggested that Village E, which has a long street, the fact that it is so long it, could become a speedway for

**REGULAR MEETING OF THE PLANNING
COMMISSION, CITY OF HAYWARD, Council
Chambers****Thursday, July 25, 2002, 7:30 P.M.****777 "B" Street, Hayward, CA 94541**

residents. He noted that the corner could become a safety issue. He suggested connecting the street at the location of the roundabout, to mitigate the speeding issue. Each property owner has certain development rights. This makes it a good product and good for Hayward. The developer has shown good faith in donating so much of the land to the public. He commented that for the developer to make a profit, that's part of the American spirit. He is making a living. It will enhance the image of the City. He said he would support the motion.

Commissioner Zermeno said he really could not vote against the motion. The developer was told to make improvements and come back with the recommendation. They have met them, so he said he would have to support the project. Essentially, it will be good for Hayward.

Commissioner McKillop thanked everyone for coming. She noted it has been a 15-year project and in those years residents have seen this project go from 2200 homes down to 615, which indicates that the City has made a lot of progress. It was approved four years ago by the City Council who gave the developer certain requirements to meet and he has met them. She said she would have to vote in favor.

Commissioner Halliday stated that the issue, "Is this something we want?" is not the issue. She said she voted against it 4 years ago. She hoped that there would be some benefits to the City of Hayward, she indicated that the people of the City would be better served to preserve the hilltop. However, her job as a Planning Commissioner is to uphold the law. She noted that the fight on this issue occurred four years ago. The City of Hayward entered into a development agreement. They also extracted much mitigation. This proposal will have a lot less of an impact than 2200 homes would have. She indicated that she would have liked to have sidewalks on the long streets, as well as the cut-through. The swim club is a loss. She admitted that the project has had a long history. Her vote is not a vote of endorsement of the project. She said all they have a say in is whether this substantially the same. She said she could not make the findings for denying this. She said it is actually better than the plan four years ago.

Chairperson Bogue said he could support this since it is substantially the same with improvements over four years ago it is in compliance basically. He said he was sorry there was no room for swim club facility. He did identify two lots for consideration of the addition of a pool. Lots 613 and 614 might be a consideration. They are adjacent to a small park and a roundabout maintained by the Homeowner's Association, and are adjacent to the parking area for the clubhouse. He asked for consideration by the developer.

The motion passed by a vote of 6:0:1, with Commissioner Caveglia abstaining

ADDITIONAL MATTERS**2. Oral Report on Planning and Zoning Matters**

Planning Manager Anderly said there is a slight possibility that there might be a meeting scheduled for September 5, after the Commissioners take the month of August as a recess.

There will be meetings on the second and forth Thursdays.

3. Commissioners' Announcements, Referrals

Commissioner Thnay asked whether anyone knew what is happening on Mission Boulevard near Twin Bridges.

Assistant Public Works Director Bauman explained that the City manages that project. The contractor had finished what should have been the initial stages of the work. Unfortunately the asphalt did not meet the specifications.

ADJOURNMENT

The meeting was adjourned by Chairperson Bogue at 10:30 p.m.

APPROVED:

Barbara Sacks, Secretary
Planning Commission

ATTEST:

Edith Looney
Commission Secretary